

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

IN RE:

KRASEN N KRASTEV
Debtor,

CASE NO. 07-54196-wsd
CHAPTER 7
JUDGE WALTER SHAPERO

DISCOVER BANK,
Plaintiff,

v.

KRASEN N KRASTEV,
Defendant,

**COMPLAINT TO DETERMINE THE NON-DISCHARGEABILITY
OF DEBT TO DISCOVER BANK**

The Plaintiff, Discover Bank, through its attorney Lawrence G Reinhold of Weinstein & Riley, P.S., states as follows:

**First Claim for Relief
Non-Dischargeability of Debt**

1. This is a complaint to determine the dischargeability of certain indebtedness owed to Discover Bank by Defendant KRASEN N KRASTEV. This complaint is filed pursuant to Federal Rule of Bankruptcy Procedure 7001(6).
2. This Court has jurisdiction in this adversary proceeding pursuant to 28 U.S.C. § 157 and 28 U.S.C. § 1334 since this proceeding arises in the above-captioned Chapter 7 case currently pending in this federal judicial district. This adversary proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(I).
3. Discover Bank is a business unit of Morgan Stanley and operates the Discover Card brand.
4. At all times mentioned, Discover Bank granted to KRASEN N KRASTEV

an extension of consumer credit under an open end credit plan in the form of a credit card bearing Account No. xxxx-xxxx-xxxx-9152. A true and correct copy of the Statement of Account is attached hereto and made a part of this complaint.

5. KRASEN N KRASTEV utilized the aforementioned line of credit, creating a balance due and owing on this account of \$ 10,242.66, including interest as of the date of the entry of the Order for Relief.

6. On March 20, 2007, 125 days before the entry of the Order for Relief, KRASEN N KRASTEV incurred a charge on the account of in the amount of \$ 6,088.00 for goods or services not believed to be reasonably necessary for the maintenance and support of KRASEN N KRASTEV nor a dependent of KRASEN N KRASTEV .

7. On March 20, 2007, 125 days before the entry of the Order for Relief, KRASEN N KRASTEV incurred a charge on the account of in the amount of \$ 3,093.00 for goods or services not believed to be reasonably necessary for the maintenance and support of KRASEN N KRASTEV nor a dependent of KRASEN N KRASTEV .

8. On March 20, 2007, 125 days before the entry of the Order for Relief, KRASEN N KRASTEV incurred a charge on the account of in the amount of \$ 151.59 for goods or services not believed to be reasonably necessary for the maintenance and support of KRASEN N KRASTEV nor a dependent of KRASEN N KRASTEV .

9. On March 20, 2007, 125 days before the entry of the Order for Relief, KRASEN N KRASTEV incurred a charge on the account of in the amount of \$ 77.02 for goods or services not believed to be reasonably necessary for the maintenance and support of KRASEN N KRASTEV nor a dependent of KRASEN N KRASTEV .

10. KRASEN N KRASTEV 's debt is a “consumer debt”, as defined by 11 U.S.C. § 101(8).

11. KRASEN N KRASTEV set forth in the bankruptcy schedules that he has monthly expenses in the amount of \$ 2,526.00 and a net monthly income of \$ 2,550.00 which leaves \$ 24.00 each month for the payment of credit card debt and unsecured debt which totaled \$ 56,617.00.

12. KRASEN N KRASTEV has listed \$ 56,617.00 in credit card, unsecured and line of credit debt in his bankruptcy schedules.

13. KRASEN N KRASTEV set forth in the bankruptcy schedules that he has assets of \$ 316,840.00 and liabilities of \$ 339,384.00 which renders KRASEN N KRASTEV insolvent.

14. From March 20, 2007 until the entry of the Order for Relief 125 days later, KRASEN N KRASTEV made zero payments on the account which had a balance of \$ 10,242.66.

15. KRASEN N KRASTEV did not use any equity in real property to pay any portion of the debt.

16. Each time that KRASEN N KRASTEV used the Discover Bank credit card, KRASEN N KRASTEV necessarily or concomitantly manifested either an actual or implied intent to repay the debt incurred.

17. Discover Bank justifiably relied upon KRASEN N KRASTEV 's representations of repayment.

18. Discover Bank was induced to lend money to KRASEN N KRASTEV by the representations of repayment and has suffered damage in the amount of \$ 9,379.61 and this reliance was the proximate cause of the loss suffered by Discover Bank.

19. By obtaining and or accepting an extension of credit from Discover Bank, KRASEN N KRASTEV did not have an intention to repay the \$ 9,379.61 and KRASEN N KRASTEV was cognizant of the fact that he did not have the ability nor intention to repay the debt in full to Discover Bank.

20. By reason of the foregoing, KRASEN N KRASTEV obtained money from Discover Bank through a material misrepresentation of KRASEN N KRASTEV's intention to repay the debt which as of the time the debt was incurred he knew to be false or which he made with gross recklessness as to its truth.

21. KRASEN N KRASTEV, therefore, had a specific intent to deceive Discover Bank by accepting the benefits of the extension of credit without ever intending to repay the same.

22. Pursuant to 11 USC § 523(a)(2), KRASEN N KRASTEV obtained money, property, services, or any extension or renewal, or refinancing of credit by false pretenses, a false representation, or actual fraud and KRASEN N KRASTEV should not be granted a discharge of this debt to Discover Bank in the amount of \$ 9,379.61.

WHEREFORE, Discover Bank asks that this Court grant the following relief:

1. An order determining that such debt is non-dischargeable under 11 USC § 523(a)(2);
2. A judgment in favor of Discover Bank and against KRASEN N KRASTEV in the amount of \$ 9,379.61, plus accrued interest at the contractual rate from and after March 20, 2007, costs, and additional interest at the contractual rate, which will continue to accrue until the date of judgment herein;
3. Such other and further relief as this Court deems just and equitable.

Dated: September 14, 2007

WEINSTEIN & RILEY, P.S.

/s/ *Lawrence G. Reinhold*

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